

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE APRIL 14, 2009

AMENDED IN SENATE APRIL 2, 2009

## SENATE BILL

**No. 774**

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### Introduced by Senator Ashburn

February 27, 2009

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An act to add Chapter 3.5 (commencing with Section 16250) to Part 4 of Division 9 of the Welfare and Institutions Code, relating to children's services.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 774, as amended, Ashburn. Social workers: criminal history.

Existing law requires the counties, with the assistance of the State Department of Social Services, to provide child welfare services, including emergency response, foster care placement, adoption services, and family maintenance and reunification.

**This**

*Commencing January 1, 2010, this bill would require a county, before hiring an applicant for a position as a county child protective service social worker who will be assigned emergency response, family maintenance, family reunification, permanent placement, or adoption responsibilities, to secure from an appropriate law enforcement agency the Department of Justice a criminal history to determine if the applicant has ever been convicted of specified crimes. The bill would prohibit the county from employing the applicant under prescribed circumstances. The bill would allow the county to require the applicant to pay any fees charged by the law enforcement agency Department of Justice for the processing of the criminal history and would prohibit*

the county from hiring a person who had been convicted of specified crimes.

*This bill would exclude a person who has obtained a certificate of rehabilitation from being considered convicted for purposes of the bill. The bill would specify additional duties of the Department of Justice with respect to obtaining necessary criminal history and subsequent arrest information and responding to counties.*

Because this bill would require the counties to take additional steps to hire social workers, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 3.5 (commencing with Section 16250)  
2 is added to Part 4 of Division 9 of the Welfare and Institutions  
3 Code, to read:

4  
5 CHAPTER 3.5. CHILD WELFARE EMPLOYEES  
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7 16250. (a) ~~Before Commencing January 1, 2010, before hiring~~  
8 a person for a position as a county child protective service social  
9 worker who will be assigned emergency response, family  
10 maintenance, family reunification, permanent placement, or  
11 adoption responsibilities, the county shall secure from ~~an~~  
12 ~~appropriate law enforcement agency~~ *the Department of Justice* a  
13 criminal history to determine if the applicant has ever been  
14 convicted of a crime specified in Section 245, 273.5, or 290;  
15 ~~subdivision (b) of Section 273a, or, prior to January 1, 1994,~~  
16 ~~paragraph (2) of Section 273a, of the Penal Code. The criminal~~  
17 ~~history information shall include the applicant's full criminal~~  
18 ~~record, if any, and subsequent arrest information pursuant to~~  
19 ~~Section 11105.2 of the Penal Code.~~ *of the Penal Code, a conviction*  
20 *for child abuse pursuant to Section 273a, 273ab, or 273d of the*

1 *Penal Code, or any sex offense specified as being perpetrated*  
2 *against a minor.*

3 (b) The county may require the applicant to pay any fees charged  
4 by the ~~law enforcement agency~~ *Department of Justice* for the  
5 processing of the criminal history.

6 (c) *A county shall submit to the Department of Justice fingerprint*  
7 *images and related information required by the Department of*  
8 *Justice of all child protective service social workers, as defined*  
9 *by subdivision (a), for the purposes of obtaining information*  
10 *regarding the existence and content of a record of state or federal*  
11 *convictions and state or federal arrests and also information*  
12 *regarding the existence and content of a record of state or federal*  
13 *arrests for which the Department of Justice establishes that the*  
14 *person is free on bail or on his or her own recognizance pending*  
15 *trial or appeal.*

16 (d) *When received, the Department of Justice shall forward to*  
17 *the Federal Bureau of Investigation requests for federal summary*  
18 *criminal history information received pursuant to this section. The*  
19 *Department of Justice shall review the information returned from*  
20 *the Federal Bureau of Investigation and compile and disseminate*  
21 *a response to the county.*

22 (e) *The Department of Justice shall provide a state and federal*  
23 *level response to the county pursuant to subdivision (p) of Section*  
24 *11105 of the Penal Code.*

25 (f) *The county shall request from the Department of Justice*  
26 *subsequent arrest notification service, as provided pursuant to*  
27 *Section 11105.2 of the Penal Code, for persons described in*  
28 *subdivision (c).*

29 (g) *The Department of Justice shall charge a fee sufficient to*  
30 *cover the cost of processing the request described in this section.*

31 16251. (a) If the county finds, through the criminal history  
32 required by Section 16250, that the applicant has been convicted  
33 of a crime specified in subdivision (a) of Section 16250, the  
34 applicant shall not be hired.

35 (b) If the county finds that the applicant is awaiting trial for a  
36 crime specified in subdivision (a) of Section 16250, the county  
37 may cease processing the application until the conclusion of the  
38 trial.

1 (c) If the county determines, after hiring an applicant, that the  
2 person has been convicted of a crime specified in subdivision (a)  
3 of Section 16250, the county shall terminate the employee.

4 16252. (a) For purposes of this chapter, “conviction” means  
5 a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere in any court in this or another state. A conviction has  
7 occurred when the time for appeal has elapsed, when the judgment  
8 of conviction has been affirmed on appeal, or when an order  
9 granting probation is made suspending the imposition of sentence,  
10 notwithstanding a subsequent order pursuant to Sections 1203.4  
11 and 1203.4a of the Penal Code permitting the person to withdraw  
12 his or her plea of guilty and to enter a plea of not guilty, or setting  
13 aside the verdict of guilty, or dismissing the accusation,  
14 information, or indictment.

15 (b) *An individual who has obtained a certificate of rehabilitation*  
16 *shall not be considered convicted for purposes of this chapter.*

17 16253. An applicant who is denied a position pursuant to  
18 Section 16251 shall ~~be entitled to~~ receive a copy of the criminal  
19 history report upon written request.

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 a local agency or school district has the authority to levy service  
23 charges, fees, or assessments sufficient to pay for the program or  
24 level of service mandated by this act, within the meaning of Section  
25 17556 of the Government Code.